

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Prime Time Christian Broadcasting, Inc.)	Facility I.D. No. 53539
Licensee of Station KRPV(TV))	NAL/Acct. No.: 201441420042
Roswell, New Mexico)	FRN: 0004328100

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: November 24, 2014

Released: November 25, 2014

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”) issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the “Act”), and Section 1.80 of the Commission’s Rules (the “Rules”),¹ we find that Prime Time Christian Broadcasting, Inc. (the “Licensee”), licensee of Station KRPV(TV), Roswell, New Mexico (the “Station”), apparently willfully and/or repeatedly violated Section 73.3526(e)(11)(iii) of the Rules² by failing to file with the Commission in a timely manner Children’s Television Programming Reports (FCC Form 398) for four quarters. Based upon our review of the facts and circumstances before us, we conclude that the Licensee is liable for a monetary forfeiture in the amount of six thousand dollars (\$6,000). We also find that the Licensee apparently willfully and/or repeatedly violated Section 73.3526(e)(11)(i) of the Rules³ by failing to file in a timely manner its TV issues/programs quarterly lists and we hereby admonish the Licensee for this violation of the Commission’s rules.

II. BACKGROUND

2. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.⁴ As set forth in subsection 73.3526(e)(11)(iii), each commercial television licensee is required to prepare and place in its public inspection file a Children’s Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it made during that quarter to serve the educational and informational needs of children. That subsection also requires licensees to file reports with the Commission and place them in their public file by the tenth day of the succeeding calendar quarter, and to publicize the existence and location of the reports.⁵ In addition, subsection 73.3526(e)(11)(i) requires

¹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

² 47 C.F.R. § 73.3526(e)(11)(iii).

³ 47 C.F.R. § 73.3526(e)(11)(i).

⁴ 47 C.F.R. § 73.3526.

⁵ 47 C.F.R. § 73.3526(e)(11)(iii).

commercial television licensees to retain in their public file, every three months, “a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period.”⁶ The TV issues/programs lists must be filed by the tenth calendar day of the succeeding quarter.⁷

3. On June 2, 2014, the Licensee filed its license renewal application (FCC Form 303-S) for the Station (the “application”).⁸ The Licensee did not report, as required, that it failed to file four Children’s Television Programming Reports in a timely manner. Review of the electronic public file also reveals that, of 31 quarters since the date of the Licensee’s last license renewal,⁹ the Licensee’s TV issues/programs lists were timely file for just five quarters.¹⁰

III. DISCUSSION

4. The Licensee’s failure to file electronically the Station’s Children’s Television Programming Reports for four quarters, along with its failure to report the violations, constitutes apparent willful and/or repeated violation of Section 73.3526(e)(11)(iii). In addition, the Licensee’s failure to file electronically the Station’s TV issues/programs Reports in a timely manner constitutes a violation of Section 73.3526(11)(i).

5. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have willfully and/or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.¹¹ Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.¹² The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,¹³ and the Commission has so interpreted the term in the Section 503(b) context.¹⁴ Section 312(f)(2) of the Act provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”¹⁵

6. The Commission’s *Forfeiture Policy Statement* and Section 1.80(b) of the Rules establish a base forfeiture amount of \$3,000 for failure to file a required form.¹⁶ In determining the appropriate

⁶ 47 C.F.R. 73.3526(e)(11)(i).

⁷ *Id.*

⁸ *Application for Renewal of Broadcast Station License*, File No. BRC DT-20140530ATB.

⁹ The station’s last license was renewed September 29, 2006.

¹⁰ From 4Q2006 to 2Q2014, two TV issues/programs lists were filed less than one month late, five were filed more than one month last and 19 were filed more than one year late.

¹¹ 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a)(1).

¹² 47 U.S.C. § 312(f)(1).

¹³ *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

¹⁴ *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

¹⁵ 47 U.S.C. § 312(f)(2).

¹⁶ *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd. 303 (1999); 47 C.F.R. § 1.80(b), note to paragraph (b)(8), Section I.

forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the Act, including “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹⁷ In this case, the Licensee failed to file its Children's Television Programming Reports in a timely manner for four quarters, ranging from seven weeks late to one year and three months late. The Licensee further failed to report certain violations in its renewal application and we therefore conclude that the Licensee is liable for a \$3,000 forfeiture for this violation. Based on our review of the facts and circumstances here, we find that the Licensee is liable for a forfeiture in the amount of \$6,000 for its apparent willful and repeated violations of Section 73.3526(e)(11)(iii) of the Rules. We also admonish the Licensee for failing to file its TV issues/programs Reports in a timely manner, as required by Section 73.3526(e)(11)(i).

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules, that Prime Time Christian Broadcasting, Inc., licensee of Station KRPV(TV), Roswell, New Mexico, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of six thousand dollars (\$6,000) for its apparent willful and repeated violations of Section 73.3526(e)(11)(iii) of the Commission's Rules.

8. **IT IS FURTHER ORDERED**, pursuant to Section 1.80 of the Commission's Rules, that within thirty (30) days of the release date of this *NAL*, Prime Time Christian Broadcasting, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the *NAL*/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank-Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the *NAL*/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code).

10. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Pamela Gallant, Associate Division Chief, Video Division, Media Bureau, Room 2-A622, and **MUST INCLUDE** the *NAL*/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the

¹⁷ 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(8); and note to paragraph (b)(8), Section II.

respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.¹⁸

12. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁹

13. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Prime Time Christian Broadcasting, Inc., 12706 West Highway 80 East, Odessa, Texas, 79765, and to its counsel, Jerold L. Jacobs, 1629 K Street, N.W., Suite 300, Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁸ See *San Jose State Univ.*, 26 F.C.C. Rcd 5908 (2011) (noting that “[t]ypically, the Commission uses gross revenue as the primary measuring stick by which it evaluates a licensee's ability to pay. Other financial indicators may be considered....”).

¹⁹ See 47 C.F.R. § 1.1914.